MONTANA LEGISLATIVE HISTORY

Chapter 279 19 97

Bill H _____ S 263 Original bill & history ✓ C

H. Committee on Judiciary		S. Committee on Judiciary	
Hearing Date(s) 3/20	✓ C	Hearing Date(s) 2-14	✓ C
3/27	✓ C	_____	___ C
_____	___ C	_____	___ C
_____	___ C	_____	___ C
Date Out _____	___ C		

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendent information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

SB 260 INTRODUCED BY SHEA, ET AL. *LC1205 DRAFTER: NISS*

CREATE A PROGRAM WITHIN THE DEPARTMENT OF COMMERCE FOR LICENSING OF HOME COMPANIONS

1/31	INTRODUCED		
1/31	FIRST READING		
1/31	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
1/31	FISCAL NOTE REQUESTED (EXTENSION GRANTED FOR COMPLETION)		
2/05	HEARING		
2/11	FISCAL NOTE RECEIVED		
2/13	FISCAL NOTE PRINTED		
2/18	TABLED IN COMMITTEE		
3/03	MISSED DEADLINE FOR 45TH DAY TRANSMITTAL DIED IN COMMITTEE		

SB 261 INTRODUCED BY KEATING, ET AL. *LC1022 DRAFTER: HEFFELFINGER*

REVISE SELECTION OF PARTY COMMITTEE MEMBERS IN LARGE COUNTIES

1/31	INTRODUCED		
1/31	FIRST READING		
1/31	REFERRED TO LOCAL GOVERNMENT		
2/11	HEARING		
2/19	TABLED IN COMMITTEE		
3/03	MISSED DEADLINE FOR 45TH DAY TRANSMITTAL DIED IN COMMITTEE		

SB 262 INTRODUCED BY VAN VALKENBURG, ET AL.

LC1382 DRAFTER: MCCLURE

DECREASE BY 15 CENTS PER THOUSAND THE FEE PAID BY THE BOARD OF REGENTS FOR ISSUANCE OF REVENUE BONDS

2/03	INTRODUCED		
2/03	FIRST READING		
2/03	REFERRED TO EDUCATION & CULTURAL RESOURCES		
2/03	FISCAL NOTE REQUESTED		
2/07	HEARING		
2/07	FISCAL NOTE RECEIVED		
2/07	FISCAL NOTE PRINTED		
2/22	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/25	2ND READING DO PASS AS AMENDED MOTION FAILED	25	25

SB 263 INTRODUCED BY BISHOP *LC1298 DRAFTER: PETESCH*

REVISE THE LAWS GOVERNING ESTATES, TRUSTS, AND FIDUCIARIES

2/03	INTRODUCED		
2/03	FIRST READING		
2/03	REFERRED TO JUDICIARY		
2/14	HEARING		
2/14	COMMITTEE REPORT—BILL PASSED		
2/19	2ND READING PASSED	50	0
2/20	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
2/21	FIRST READING		
2/21	REFERRED TO JUDICIARY		
3/20	HEARING		
4/02	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/03	2ND READING CONCURRED	97	1
4/04	3RD READING CONCURRED	96	3

	RETURNED TO SENATE WITH AMENDMENTS		
4/08	2ND READING AMENDMENTS CONCURRED	50	0
4/09	3RD READING CONCURRED AS AMENDED	50	0
4/14	SIGNED BY PRESIDENT		
4/15	SIGNED BY SPEAKER		
4/15	TRANSMITTED TO GOVERNOR		
4/16	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 279		
	EFFECTIVE DATE: 10/01/97		

SB 264 INTRODUCED BY MILLER, ET AL. *LC1073 DRAFTER: ERICKSON*

AUTHORIZE THE GOVERNOR TO CREATE AND PARTICIPATE IN THE WESTERN GOVERNORS' UNIVERSITY

2/03	INTRODUCED		
2/03	FIRST READING		
2/03	REFERRED TO STATE ADMINISTRATION		
2/03	FISCAL NOTE REQUESTED		
2/10	FISCAL NOTE RECEIVED		
2/11	HEARING		
2/11	FISCAL NOTE PRINTED		
2/14	COMMITTEE REPORT—BILL PASSED		
2/15	2ND READING PASSED	42	8
2/17	3RD READING PASSED	44	6
	TRANSMITTED TO HOUSE		
2/21	FIRST READING		
2/21	REFERRED TO EDUCATION & CULTURAL RESOURCES		
3/07	HEARING		
3/10	COMMITTEE REPORT—BILL CONCURRED		
3/25	2ND READING CONCURRED	77	21
3/26	3RD READING CONCURRED	74	25
	RETURNED TO SENATE		
4/02	SIGNED BY PRESIDENT		
4/03	SIGNED BY SPEAKER		
4/03	TRANSMITTED TO GOVERNOR		
4/07	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 205		
	EFFECTIVE DATE: 04/07/97		

SB 265 INTRODUCED BY THOMAS, ET AL. *LC0495 DRAFTER: ERICKSON*

REVISE THE LAWS RELATING TO CONSTRUCTION STANDARDS FOR RECREATIONAL VEHICLES

2/03	INTRODUCED		
2/03	FIRST READING		
2/03	REFERRED TO BUSINESS & INDUSTRY		
2/03	FISCAL NOTE REQUESTED		
2/07	FISCAL NOTE RECEIVED		
2/07	FISCAL NOTE PRINTED		
2/12	HEARING		
2/13	COMMITTEE REPORT—BILL PASSED		
2/15	2ND READING PASSED	50	0
2/17	3RD READING PASSED	48	2
	TRANSMITTED TO HOUSE		
2/21	FIRST READING		
2/21	REFERRED TO TRANSPORTATION		
3/14	HEARING		
3/26	COMMITTEE REPORT—BILL CONCURRED		
4/03	2ND READING CONCURRED	94	3
4/04	3RD READING CONCURRED	97	2

Senate BILL NO. 263

INTRODUCED BY Bishop

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING ESTATES, TRUSTS, AND FIDUCIARIES; CLARIFYING THE RECORDING FOR UNIT OWNERSHIP; CLARIFYING THAT A COURT MAY LIMIT THE POWERS AND DUTIES OF THE GUARDIAN OF A MINOR; CLARIFYING PROVISIONS RELATING TO MULTIPLE-PERSON ACCOUNTS; CLARIFYING PROTECTION FOR A FINANCIAL INSTITUTION FOR HONORING A REQUEST FOR THE ALTERATION OF RIGHTS TO A MULTIPLE-PERSON ACCOUNT; ALLOWING DEVIATIONS FROM THE STATUTORY DEATH TAX APPORTIONMENT RULE; PERMITTING A REGULATED FINANCIAL INSTITUTION TO HIRE AN AFFILIATE FOR THE PURCHASE OR SALE OF INVESTMENT SECURITIES; AND AMENDING SECTIONS 70-23-304, 72-5-231, 72-6-204, 72-6-213, 72-6-226, 72-16-603, AND 72-34-117, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 70-23-304, MCA, is amended to read:

"**70-23-304. Declaration to be approved by department of revenue before recording.** Before a declaration may be recorded in the county in which the property is located, it must be approved by the department of revenue. A declaration must be approved unless:

(1) the name ~~is proper so as to~~ does not comply with 70-23-303; and

(2) all taxes and assessments due and payable have not been paid."

Section 2. Section 72-5-231, MCA, is amended to read:

"**72-5-231. Powers and duties of guardian of minor.** ~~A~~ Unless otherwise limited by the court, a guardian of a minor has the powers and responsibilities of a parent who has not been deprived of custody of ~~his~~ the parent's minor and unemancipated child, except that a guardian is not legally obligated to provide from ~~his~~ the guardian's own funds for the ward and is not liable to third persons by reason of the parental relationship for acts of the ward. In particular and without qualifying the foregoing, a guardian has the following powers and duties:

(1) ~~He~~ The guardian ~~must~~ shall take reasonable care of ~~his~~ the ward's personal effects and

commence protective proceedings if necessary to protect other property of the ward.

(2) ~~He~~ The guardian may receive money payable for the support of the ward to the ward's parent, guardian, or custodian under the terms of any statutory benefit or insurance system or any private contract, devise, trust, conservatorship, or custodianship. ~~He~~ The guardian also may receive money or property of the ward paid or delivered by virtue of 72-5-104. Any sums ~~so~~ received ~~shall~~ must be applied to the ward's current needs for support, care, and education. ~~He~~ The guardian ~~must~~ shall exercise due care to conserve any excess for the ward's future needs unless a conservator has been appointed for the estate of the ward, in which case the excess ~~shall~~ must be paid ~~over~~ at least annually to the conservator. Sums ~~so~~ received by the guardian ~~are~~ may not ~~to~~ be used for compensation for ~~his~~ the guardian's services except as approved by an order of the court or as determined by a duly appointed conservator other than the guardian. A guardian may institute proceedings to compel the performance by any person of a duty to support the ward or to pay sums for the welfare of the ward.

(3) The guardian is empowered to facilitate the ward's education, social, or other activities and to authorize medical or other professional care, treatment, or advice. A guardian is not liable by reason of this consent for injury to the ward resulting from the negligence or acts of third persons unless it would have been illegal for a parent to have consented. A guardian may consent to the marriage or adoption of ~~his~~ the ward.

(4) A guardian ~~must~~ shall report the condition of ~~his~~ the ward and of the ward's estate ~~which~~ that has been subject to ~~his~~ the guardian's possession or control, as ordered by the court on petition of any person interested in the minor's welfare or as required by court rule."

Section 3. Section 72-6-204, MCA, is amended to read:

"**72-6-204. Forms.** (1) A contract of deposit that contains provisions in substantially the following form establishes the type of account provided, and the account is governed by the provisions of this part applicable to an account of that type:

UNIFORM SINGLE- OR MULTIPLE-PARTY ACCOUNT FORM

PARTIES [Name One or More Parties]: ....

OWNERSHIP [Select One and Initial]:

..... SINGLE-PARTY ACCOUNT

..... MULTIPLE-PARTY ACCOUNT

Parties own account in proportion to net contributions unless there is clear and convincing evidence of a different intent. However, any one party may withdraw the entire amount on deposit in the account. Further, any one party may change the ~~type~~ terms of account.

RIGHTS AT DEATH [Select One and Initial]:

..... SINGLE-PARTY ACCOUNT

At death of party, ownership passes as part of party's estate.

..... SINGLE-PARTY ACCOUNT WITH POD (PAY ON DEATH) DESIGNATION

[Name One or More Beneficiaries]:

....

At death of party, ownership passes to POD beneficiaries and is not part of party's estate.

..... MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP

At death of party, ownership passes to surviving parties.

..... MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP AND POD (PAY ON DEATH) DESIGNATION

[Name One or More Beneficiaries]:

....

At death of last surviving party, ownership passes to POD beneficiaries and is not part of last surviving party's estate.

..... MULTIPLE-PARTY ACCOUNT WITHOUT RIGHT OF SURVIVORSHIP

At death of party, deceased party's ownership passes as part of deceased party's estate.

AGENCY (POWER OF ATTORNEY) DESIGNATION

Agents may make account transactions for parties but have no ownership or rights at death unless named as POD beneficiaries.

[To Add Agency Designation to Account, Name One or More Agents]:

....

[Select One And Initial]:

..... AGENCY DESIGNATION SURVIVES DISABILITY OR INCAPACITY OF PARTIES

..... AGENCY DESIGNATION TERMINATES ON DISABILITY OR INCAPACITY OF PARTIES

(2) A contract of deposit that does not contain provisions in substantially the form provided in subsection (1) is governed by the provisions of this part applicable to the type of account that most nearly

conforms to the depositor's intent."

Section 4. Section 72-6-213, MCA, is amended to read:

"**72-6-213. Alteration of rights.** (1) Rights at death under 72-6-212 are determined by the terms of the account at the death of a party.

(2) Except as provided in subsection (3) and unless otherwise agreed in writing between the parties to the account, ~~The~~ the terms of an account may be altered by written notice given by a party to the financial institution to change the terms of account or to stop or vary payment under the terms of the account. The notice must be signed by a party and received by the financial institution during the party's lifetime.

(3) A financial institution may, in its discretion, refuse to honor a request for alteration of rights that would change:

(a) the financial institution's obligations or rights under the contract of deposit; or

(b) the parties to a multiple-party account if the request is not signed by all of the parties to the account.

~~(2)~~(4) A right of survivorship arising from the express terms of the account, from 72-6-212, or from a POD designation may not be altered by will."

Section 5. Section 72-6-226, MCA, is amended to read:

"**72-6-226. Discharge.** (1) Payment made pursuant to this part in accordance with the terms of an account, or honoring a request for alteration of rights made in accordance with 72-6-213, discharges the financial institution from all claims for amounts so paid or alterations so made, whether or not the payment or alteration is consistent with the beneficial ownership of the account as between parties, beneficiaries, or their successors. Payment or alteration may be made whether or not a party, beneficiary, or agent is disabled, incapacitated, or deceased when payment or alteration is requested, received, or made.

(2) Protection under this section does not extend to payments or alterations made after a financial institution has received written notice from a party, or from the personal representative, surviving spouse, or heir or devisee of a deceased party, to the effect that payments in accordance with the terms of the account or alteration of rights, including ~~one~~ payments or alterations relating to an account having an agency designation, should not be permitted and after the financial institution has had a reasonable

opportunity to act on the notice when the payment is made or the alteration is requested. Unless the notice is withdrawn by the person giving it, the successor of any deceased party shall concur in a request for payment or alteration if the financial institution is to be protected under this section. Unless a financial institution has been served with process in an action or proceeding, no other notice or other information shown to have been available to the financial institution affects its right to protection under this section.

(3) A financial institution that receives written notice pursuant to this section or otherwise has reason to believe that a dispute exists as to the rights of the parties may refuse, without liability, to make payments in accordance with the terms of the account or to honor a request for alterations.

(4) Protection of a financial institution under this section does not affect the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of sums on deposit in accounts or payments made from accounts or regarding whether a request for an alteration of rights to an account was improper between the parties."

Section 6. Section 72-16-603, MCA, is amended to read:

"**72-16-603. Tax -- how apportioned.** (1) Except as provided in subsection (3) and unless the will or governing instrument otherwise provides, the tax ~~shall~~ must be apportioned among all persons interested in the estate. The apportionment is to be made in the proportion that the value of the interest of each person interested in the estate bears to the total value of the interests of all persons interested in the estate. The values used in determining the tax are to be used for that purpose.

(2) If the decedent's will or governing instrument directs a method of apportionment of tax different from the method described in this part, the method described in the will or governing instrument controls.

(3) If the liabilities of persons interested in the estate as described in this part differ from those ~~which~~ that result under the federal estate tax law, the liabilities imposed by the federal law control and the balance of this part applies as if the resulting liabilities had been prescribed in this part."

Section 7. Section 72-34-117, MCA, is amended to read:

"**72-34-117. Certain actions and transactions not violations of duties.** (1) The following actions or transactions do not violate the duties provided in 72-34-103 or 72-34-105:

(a) ~~The~~ the provision of services for reasonable compensation by a regulated financial institution or its affiliates in the ordinary course of business either to a trust ~~of~~ for which it or an affiliate also acts as

trustee or to a person dealing with the trust ~~is not a violation of the duty provided in 72-34-103 or 72-34-105.~~;

(b) the purchase or sale of investment securities between a regulated financial institution or its affiliates in the ordinary course of business or to a trust for which it or an affiliate also acts as trustee.

(2) Subsection (1) does not affect the duty to use ordinary skill and prudence as provided in 72-34-114.

(3) For the purposes of this section, "affiliate" means a corporation that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another domestic or foreign corporation."

-END-

SENATE JUDICIARY

BILL NO	REFERRED	HEARING	OTHER CONSIDERATION DATES	EXECUTIVE ACTION/DATE/VOTE	REREFERRED	DATE READ
SB0232	1/27	2/04		PASS AS AMENDED VOTE: 10-0	2-7	2/08
SB0247	MESAROS, KEN 1/29	2/04	ABSOLUTE LIABILITY OFFENSE OF DAMAGING & DESTROYING PROPERTY DURING REC USE	TABLED ON 02/06 VOTE:		
SB0250	CRIPPEN, BRUCE 1/30	2/10	CREATE FAMILY LAW APPEALS COURT	TABLED ON 02/12 VOTE:10-0		
SB0255	EMERSON, C. A. 1/30	2/12	INSPECTOR GENERAL TO INVESTIGATE CIVIL RIGHTS VIOLATIONS	TABLED ON 02/17 VOTE:9-1		
SB0256	HARGROVE, DON 1/31	2/07	CREATE OFFENSE OF ASSAULT UPON PEACE OFFICER OR JUDICIAL OFFICER	DO PASS VOTE: 10-0	2-7	2/08
SB0263	BISHOP, AL 2/03	2/14	GENERALLY REVISE ESTATE, TRUST, AND FIDUCIARY LAWS	DO PASS VOTE:10-0	2-14	2/14
SB0266	DEVLIN, GERRY 2/03	2/11	ESTABLISH SUBROGATION RIGHTS IN MOTOR VEHICLE LIABILITY POLICIES	PASS AS AMENDED VOTE:	2-18	2/18
SB0277	BARTLETT, SUE 2/04	2/07	REVISE DISTRICT COURT SMALL CLAIMS PROCEDURE	DO PASS VOTE: 10-0	2-7	2/08
SB0278	ECK, DOROTHY 2/04	2/10	PROHIBIT MINORS IN GAMBLING AREA	PASS AS AMENDED VOTE: 7-3	2-13	2/14
SB0279	CRIPPEN, BRUCE 2/04	2/06	REVISE CONDITIONS FOR TERMINATION OF RENTAL AGREEMENT IN MOBILE HOME PARK	PASS AS AMENDED VOTE:10-0	2-12	2/14
SB0283	BURNETT, JIM 2/05	2/10	CHILD ABUSE/NEGLECT PROC. REQUIRE PARENT INPUT BEFORE TIA ISSUED	PASS AS AMENDED VOTE:8-2	2-12	2/14
SB0286	CRIPPEN, BRUCE 2/05		INCLUDE EXTERIOR ACCESS FOR PERSON WITH DISABILITY IN BUILDING CODE	VOTE:	BUSINESS & LABOR	
	ECK, DOROTHY		CRIMINAL SURCHARGE TO FUND VICTIM/WITNESS ASSISTANCE PROGRAMS			

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **SEN. BRUCE D. CRIPPEN**, on February 14, 1997, at 8:00 a.m. in the Senate Judiciary Chambers (Room 25) of the State Capitol, Helena, Montana.

ROLL CALL

Members Present:

Sen. Bruce D. Crippen, Chairman (R)
Sen. Lorents Grosfield, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Sharon Estrada (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter L. McNutt (R)

Members Excused: None

Members Absent: None

Staff Present: Valencia Lane, Legislative Services Division
Jody Bird, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:	SB 263,	posted February 5
	SB 291,	posted February 8
	SB 321,	posted February 11
	SB 329,	posted February 12
	SB 327,	posted February 11
Executive Action:	SB 263, SB 329	

EXECUTIVE ACTION ON SB 230

Amendments: sb023005.avl, sb023006.avl **(EXHIBITS #a AND #b)**

Motion/Vote: **SEN. SHARON ESTRADA MOVED SB 230 BE TAKEN OFF THE TABLE. THE MOTION CARRIED WITH ALL MEMBERS VOTING AYE EXCEPT SEN.S HALLIGAN, BISHOP, JABS, AND DOHERTY WHO VOTED NO.**

Motion: **SEN. ESTRADA MOVED THE AMENDMENTS sb23005.avl BE ADOPTED.**

HEARING ON SB 263

Sponsor: **SEN. AL BISHOP, SD 9, Billings**

Proponents: **Kristen Juras**
Sherry Meador, Superior Court Child Neglect Program
Bob Pyfer, Montana Credit Unions League
David Dennis, D.A. Davidson Companies
John Cadby, Montana Bankers Association

Opponents: **None**

Opening Statement by Sponsor: **SEN. BISHOP, SD 9, Billings.** This is principally a technical correction bill.

Proponents' Testimony: **Kristen Juras with Church, Harris, Johnson, Great Falls, for the Committee on Trust, Tax, and Real Estate Law (EXHIBIT #c).** Sections 1 and 6 make a correction to the Montana Unit Ownership Act passed with an error a few years ago. The language has been modified to say "declaration must be proved unless not...". Section 6 also contains equitable apportionment with regard to paying ones fair share of inheritance tax, but the testator of a will can state this is to be paid under residual estate of the will, and adds the language, "also by living trust."

Sherry Meador, Superior Court Child Neglect Program. This gives the Court authority to limit powers of administrator and guardian.

Bob Pyfer, Montana Credit Unions League. In 72-6-204, MCA, on page 3, line 3, "type" is changed to "terms" to correct it under current 6-12-13 (Uniform Multiple Party Law). Language is added on lines 6-7, "unless otherwise agree...no changes can be made." On line 13, Subsection (3)(a), language was added that parties can't change the agreement with the financial institution without their permission. In Subsection (b), line 14, a financed institution can have a policy not to make changes unless all parties agree. This guarantees financial institutions the same protection in making changes as in making payments. Sections 3, 4, and 5 merely remove ambiguities.

David Dennis, D.A. Davidson Companies, including D.A. Davidson, Inc. and five trust companies in Montana, Idaho, Washington, and Alaska. D.A. Davidson can provide services to the Trust Corporation it manages, but current law is unclear.

{Tape: 1; Side: A; Approx. Time Count: #29.8; Comments: 8:35 a.m..}

For example, D.A. Davidson purchases securities for the Trust. As another example, the law is unclear in situations where we

would buy a tax-free bond for the Trust. D.A. Davidson is performing a service, and this would allow D.A. Davidson to sell a bond to the Trust.

John Cadby, Montana Bankers Association. The Association supports the bill.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor: None

HEARING ON SB 329

Sponsor: **SEN. MIKE HALLIGAN, SD 329, Missoula**

Proponents: **Elaine H. Gagliardi, Business, Trust, Tax Estate and Real Property Section of the Montana State Bar**
Kristen Juras

Opponents: **None**

Opening Statement by Sponsor: **SEN. MIKE HALLIGAN, SD 329, Missoula.** This is the Committee bill to deal with pressing issues on limited partnerships and limited liability companies brought by the Montana State Bar. I will reserve the right to close.

Proponents' Testimony: **Elaine Hightower-Gagliardi, Business, Trust, Tax Estate and Real Property Section of the Montana State Bar, and visiting professor at the University of Montana School of Law.** Sally Deaver and I worked on this to make it easier for owners of businesses in Montana to do business in the State.

Section 1 is a new section on the Model Business Act, recently adopted by the American Bar Association, and allows shareholders to enter into more flexible agreements and to operate more informally and still have limited liability - more flexible without the statutory closed corporation status.

{Tape: 1; Side: A; Approx. Time Count: #37.7; Comments: None.}

Section 3 makes a technical correction to the Professional Limited Liability Company Act. Right now they are only protected against malpractice of an employee, so "member" was inserted to broaden the language.

Section 4 simplifies information to go into the certificate of limited partnership. Apparently, after 1985, when the Uniform Act was drafted, Montana never picked this up, although 43 states have done so. This was brought to our attention by Dean Eck at the University of Montana School of Law.

{Tape: 3; Side: A; Approx. Time Count: #1.5; Comments: 11:35 a.m..}

EXECUTIVE ACTION ON SB 263

Motion: **SEN. BISHOP MOVED SB 263 DO PASS.**

Discussion: **SEN. JABS.** Does this have anything to do with augmented estates? **SEN. BISHOP.** No.

ACTING CHAIRMAN HOLDEN. Is there anything to do with life insurance in this bill? **SEN. BISHOP.** No.

Vote: **SEN. BISHOP'S MOTION THAT SB 263 DO PASS CARRIED UNANIMOUSLY.**

EXECUTIVE ACTION ON SB 329

Amendments: sb32901.agp - **EXHIBIT 14**

SEN. HALLIGAN. There was one amendment that **Valencia Lane** and I worked on, as a page was missed when the FAX came in (sb32901.agp)

Motion: **SEN. HALLIGAN MOVED TO ADOPT THE AMENDMENTS.**

Discussion: **SEN. HALLIGAN.** **SEN. NELSON** had a concern in her coop in Plentywood which was dissolving and wanted to give property such as computers to the school. This amendment addresses those concerns. The other amendment is a clean-up amendment.

Vote: **SEN. HALLIGAN'S MOTION TO ADOPT THE AMENDMENTS TO SB 329 CARRIED UNANIMOUSLY.**

Motion: **SEN. HALLIGAN MOVED SB 329 DO PASS AS AMENDED.**

SEN. HALLIGAN. I will make sure we have a good explanation when the bill gets to the floor, as these changes make it more efficient for businesses to do business in Montana. The bill gets us up to speed on Uniform Limited Partnerships and Limited Liability Companies, to be consistent nationally and stay competitive.

Vote: **SEN. HALLIGAN'S MOTION SB 329 DO PASS AS AMENDED CARRIED UNANIMOUSLY.**

HOUSE JUDICIARY

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE ------- REREFERRED ---- DATE READ

SB0205	MCNUTT, WALTER		ALLOW TRUTH AS AN ABSOLUTE DEFENSE IN CRIMINAL DEFAMATION					
	2/07	3/11		CONCUR	03/11	VOTE: 15-0		3/11
SB0212	MCNUTT, WALTER		REQUIRE JURY AWARD OF PUNITIVE DAMAGES TO BE UNANIMOUS AS TO LIABILITY & AMT					
	2/13	3/05		CONCUR AS AMENDED	03/06	VOTE: 9-8		3/07
SB0216	VAN VALKENBURG, FRED		REVISE POSTCONVICTION RELIEF					
	2/11	3/14		CONCUR AS AMENDED	03/14	VOTE: 10-8		3/14
SB0219	FRANKLIN, EVE		CREATING "PEEPING TOM" CRIMINAL OFFENSE					
	2/22	3/20		CONCUR AS AMENDED	03/27	VOTE: 15-3		4/02
SB0222	GLASER, BILL		REVISE DANGEROUS DRUG AND DUI LAWS					
	2/11					VOTE:	2/14/97	
SB0232	BENEDICT, STEVE		ESTABLISH ACCOUNTANT STATUTE OF LIMITATIONS					
	2/13	3/14		CONCUR	03/14	VOTE: 14-4		3/14
SB0263	BISHOP, AL		GENERALLY REVISE ESTATE, TRUST, AND FIDUCIARY LAWS					
	2/21	3/20		CONCUR AS AMENDED	03/27	VOTE: 19-0		4/02
SB0270	BENEDICT, STEVE		CLARIFY AND EXPAND LAWS GOVERNING INSURANCE AND SECURITIES FRAUD					
	3/03	3/20		CONCUR AS AMENDED	03/24	VOTE: 16-0		3/25
SB0277	BARTLETT, SUE		REVISE DISTRICT COURT SMALL CLAIMS PROCEDURE					
	2/13	3/14		CONCUR	03/14	VOTE: 16-0		3/14
SB0283	BURNETT, JIM		CHILD ABUSE/NEGLECT PROC. REQUIRE PARENT INPUT BEFORE TIA ISSUED					
	2/21	3/21		CONCUR AS AMENDED	03/27	VOTE: 10-7		4/03
SB0289	ECK, DOROTHY		CRIMINAL SURCHARGE TO FUND VICTIM/WITNESS ASSISTANCE PROGRAMS					
	2/21	3/25		TABLED ON	03/27	VOTE: 17-3		
SB0308	BECK, TOM		ENACT GOVERNMENT ACCOUNTABILITY ACT					
	3/03	3/21		CONCUR	03/25	VOTE: 13-7		3/26

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BOB CLARK, on March 20, 1997, at 8:00 AM, in Room 312-1.

ROLL CALL

Members Present:

Rep. Bob Clark, Chairman (R)
Rep. Daniel W. McGee, Vice Chairman (Majority) (R)
Rep. Diana E. Wyatt, Vice Chairman (Minority) (D)
Rep. Shiell W. Anderson (R)
Rep. Ellen Bergman (R)
Rep. William E. Boharski (R)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. Duane Grimes (R)
Rep. H.S. "Sonny" Hanson (R)
Rep. Joan Hurdle (D)
Rep. Deb Kottel (D)
Rep. Linda McCulloch (D)
Rep. Brad Molnar (R)
Rep. Gerald Pease (D)
Rep. Diane Sands (D)
Rep. Liz Smith (R)
Rep. Loren L. Soft (R)
Rep. Bill Tash (R)

Members Excused: Rep. Chris Ahner
Rep. "Sonny" Hanson excused until 9:20 AM.
Rep. Linda McCulloch excused until 9:00 AM.

Members Absent: Rep. Duane Grimes absent until 10:30 AM.
Rep. Liz Smith absent until 8:40 AM.

Staff Present: John MacMaster, Legislative Services Division
Joanne Gunderson, Committee Secretary

Committee Business Summary:
Hearing(s) & Date(s) Posted: SB 201, SB 219, SB 263, SB 270
POSTED 3/6/97

HEARING ON SB 270

Opening Statement by Sponsor: **SEN. STEVE BENEDICT**
{Tape: 1; Side: A; Approx. Time Count: 0.1; Comments: This set of minutes is recorded on four 60-minute tapes.}

Questions From Committee Members and Responses:
{Tape: 1; Side: B; Approx. Time Count: 8.8-Tape 2; Side A; 3.1}

Closing by Sponsor: SEN. FRANKLIN
{Tape: 2; Side: A; Approx. Time Count: 3.2}

HEARING ON SB 263

Opening Statement by Sponsor: SEN. AL BISHOP
{Tape: 2; Side: A; Approx. Time Count: 5.3}

Proponents' Testimony:

KRISTEN JURAS, Montana Bar, Legislative Committee EXHIBIT 5
{Tape: 2; Side: A; Approx. Time Count: 6.5}

SHERRY MEADOR, Supreme Court Assessment Program
{Tape: 2; Side: A; Approx. Time Count: 9.9; Comments: This proponent spoke to section 2 of the bill.}

BOB PYFER, Montana Credit Unions' League
{Tape: 2; Side: A; Approx. Time Count: 10.5; Comments: This proponent spoke to sections 3, 4, and 5 of the bill.}

DAVID DENNIS, General Counsel, D.A. Davidson Company
{Tape: 2; Side: A; Approx. Time Count: 14.0; Comments: This proponent spoke to section 7 of the bill.}

JOHN CADBY, Montana Bankers' Association
{Tape: 2; Side: A; Approx. Time Count: 18.8; Comments: This proponent did not sign in.}

Questions From Committee Members and Responses:
{Tape: 2; Side: A; Approx. Time Count: 19.4-Tape 2;Side B; 15.6}

Closing by Sponsor: SEN. BISHOP
{Tape: 2; Side: B; Approx. Time Count: 15.7}

HEARING ON SB 201

Opening Statement by Sponsor: SEN. WILLIAM GLASER EXHIBIT 6
{Tape: 2; Side: B; Approx. Time Count: 16.9; Comments: The sponsor requested that the press not use the name of the victim referred to.}

Proponents' Testimony:

REP. DEB KOTTEL
{Tape: 2; Side: B; Approx. Time Count: 27.3}

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BOB CLARK, on March 27, 1997, at 8:30 AM, in Room 312-1.

ROLL CALL

Members Present:

Rep. Bob Clark, Chairman (R)
Rep. Daniel W. McGee, Vice Chairman (Majority) (R)
Rep. Diana E. Wyatt, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Shiell W. Anderson (R)
Rep. Ellen Bergman (R)
Rep. William E. Boharski (R)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. Duane Grimes (R)
Rep. H.S. "Sonny" Hanson (R)
Rep. Joan Hurdle (D)
Rep. Deb Kottel (D)
Rep. Linda McCulloch (D)
Rep. Brad Molnar (R)
Rep. Gerald Pease (D)
Rep. Diane Sands (D)
Rep. Liz Smith (R)
Rep. Loren L. Soft (R)
Rep. Bill Tash (R)

Members Excused: Rep. Hanson was excused until 10:00 AM.

Members Absent: Rep. Ahner was absent until 12 noon.

Staff Present: John MacMaster, Legislative Services Division
Joanne Gunderson, Committee Secretary

Committee Business Summary:

Executive Action:

TABLED: SB 178, SB 289, SB 320, SB 382
BE CONCURRED IN: SB 201, SB 329, SB 383
BE CONCURRED IN AS AMENDED: SB 369, SB 314, SB 263, SB 219, SB 283
SB 110 TO RECONSIDER - FAILED

EXECUTIVE ACTION ON SB 320

Motion: **REP. GRIMES moved SB 320 BE NOT CONCURRED IN. EXHIBIT 2**
{Tape: 2; Side: B; Approx. Time Count: 12.9}

Motion/Vote: **REP. ELLINGSON moved amendments drafted by Greg Petesch to SB 320.** The motion carried 18 - 0. REPS. AHNER and SMITH were absent for the vote.
{Tape: 2; Side: B; Approx. Time Count: 16.0}

Motion: **REP. ELLINGSON moved amendments dated 3/20/97 to SB 320.**
{Tape: 2; Side: B; Approx. Time Count: 18.6}

Discussion:
{Tape: 2; Side: B; Approx. Time Count: 19.4}

Motion/Vote: **REP. ANDERSON moved to table SB 320.** The motion carried 10 - 8. REPS. ELLINGSON, HURDLE, WYATT, McCULLOCH, PEASE, SANDS, BOHARSKI and KOTTEL voting no. REPS. AHNER and SMITH were absent for the vote and did not leave proxy votes.
{Tape: 2; Side: B; Approx. Time Count: 26.3}

EXECUTIVE ACTION ON SB 383

Motion: **REP. WYATT moved SB 383 BE CONCURRED IN.**
{Tape: 2; Side: B; Approx. Time Count: 29.0}

Discussion:
{Tape: 3; Side: A; Approx. Time Count: 0.5}

Vote: The motion carried 17 - 1; REP. HURDLE voting no. REPS. AHNER and SMITH were absent for the vote. **REP. MOLNAR will carry SB 383.**
{Tape: 3; Side: A; Approx. Time Count: 2.2}

EXECUTIVE ACTION ON SB 263

Motion: **REP. KOTTEL moved SB 263 BE CONCURRED IN.**
{Tape: 3; Side: A; Approx. Time Count: 3.2}

Motion: **REP. ELLINGSON moved to amend SB 263.** **EXHIBIT 3**
{Tape: 3; Side: A; Approx. Time Count: 4.7}

Discussion:
{Tape: 3; Side: A; Approx. Time Count: 5.2; Comments: REP. HANSON arrived.}

Vote: The motion carried 19 - 0. REP. AHNER was absent for the vote.

Motion/Vote: **REP. BOHARSKI moved SB 263 BE CONCURRED IN AS AMENDED.** The motion carried 19 - 0. REP. AHNER was absent for the vote. **REP. HANSON will carry SB 263.**

EXECUTIVE ACTION ON SB 369

Motion: **REP. TASH moved SB 369 BE CONCURRED IN.** **EXHIBIT 4**
{Tape: 3; Side: A; Approx. Time Count: 13.5}

Discussion:
{Tape: 3; Side: A; Approx. Time Count: 14.1 - 15.9}

Motion: **REP. KOTTEL moved to amend SB 369.** **EXHIBIT 5**
{Tape: 3; Side: A; Approx. Time Count: 16.1}

Discussion:
{Tape: 3; Side: A; Approx. Time Count: 20.0; Comments: .}

Vote: The motion carried 18 - 1; REP. WYATT voting no. REP. AHNER was absent for the vote.

Motion: **REP. BOHARSKI moved SB 369 BE CONCURRED IN AS AMENDED.**

Discussion:
{Tape: 3; Side: A; Approx. Time Count: 25 - end of side A; Comments: At 19.8 on the tape, REPS. WYATT and KOTTEL made statements for the record regarding SB 369

Vote: The motion to concur in SB 369 carried 19 - 0. REP. AHNER was absent for the vote. **REP. KOTTEL will carry SB 369.**
{Tape: 3; Side: B; Approx. Time Count: 0.1}

EXECUTIVE ACTION ON SB 382

Motion: **REP. MC GEE moved SB 382 BE CONCURRED IN.**
{Tape: 3; Side: B; Approx. Time Count: 2.0}

Discussion:
{Tape: 3; Side: B; Approx. Time Count: 2.8}

Motion: **REP. ELLINGSON moved to amend SB 382.**
{Tape: 3; Side: B; Approx. Time Count: 3.5}

Discussion:
{Tape: 3; Side: B; Approx. Time Count: 3.6-end of Tape 3; Side B}

Motion/Vote: **REP. BOHARSKI moved a substitute amendment to strike the word, "or" at the end of line 15 on page 6 and insert the word, "and."** The motion carried 17 - 0; REPS. AHNER, TASH